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2 **IN THE UNITED STATES DISTRICT COURT**  
3 **FOR THE NORTHERN DISTRICT OF TEXAS**

4 **BRENT ECHOLS,** §  
5 §  
6 Plaintiff, § **Civil Action No.**  
7 §  
8 **v.** §  
9 § **Jury Trial Demanded**  
10 **ONE ADVANTAGE, LLC,** §  
11 Defendant. §  
12 §

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13 **COMPLAINT**

14 BRENT ECHOLS (“Plaintiff”), by his attorneys, KIMMEL &  
15 SILVERMAN, P.C., alleges the following against ONE ADVANTAGE. LLC,  
16 (“Defendant”):  
17

18 **INTRODUCTION**

19 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices  
20 Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”) and the Telephone Consumer Protection  
21 Act, 47 U.S.C. § 227 *et seq.* (“TCPA”).  
22

23 **JURISDICTION AND VENUE**

24 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),  
25 which states that such actions may be brought and heard before “any appropriate

1 United States district court without regard to the amount in controversy;” 28  
2 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
3 under the laws of the United States..  
4

5 3. Venue is proper pursuant to 28 U.S.C. § 1391 (b)(2).

6 **PARTIES**

7 4. Plaintiff is a natural person residing in Fort Worth, Texas 76134.

8 5. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §  
9 1692a(3).  
10

11 6. In the alternative, Plaintiff is a person granted a cause of action under  
12 the FDCPA. See §1692(k)(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687  
13 (E.D. Pa. Dec. 22, 2000).  
14

15 7. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

16 8. Defendant is a corporation with its corporate headquarters located at  
17 7650 Magna Drive., Belleville, IL 62223.  
18

19 9. Defendant is a “debt collector” as that term is defined by 15 U.S.C.  
20 §1692 a(6), and sought to collect a debt from Plaintiff.  
21

22 10. Defendant is a “person” as that term is defined by 47 U.S.C.  
23 §153(39).  
24

25 11. At all relevant times, Defendant acted as a “debt collector” within the  
meaning of 15 U.S.C. § 1692(a)(6), and attempted to collect a “debt” as defined by

1 15 U.S.C. § 1692(a)(5).

2 12. The principal purpose of Defendant's business is debt collection.

3 13. Defendant acted through its agents, employees, officers, members,  
4 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
5 representatives, and insurers.  
6

7 **FACTUAL ALLEGATIONS**  
8

9 14. At all relevant times, Defendant attempted to collect a consumer debt  
10 and contacted Plaintiff in its attempts to collect that debt.

11 15. Plaintiff does not have any business debts, so the debt that Defendant  
12 has been calling Plaintiff regarding could only have been incurred for personal,  
13 family or household purposes.  
14

15 16. Beginning sometime in March 2017 and continuing through May  
16 2017, Defendant's collectors repeatedly and continuously placed calls to  
17 Plaintiff's cellular telephone number.  
18

19 17. Defendant placed calls from telephone numbers including, but not  
20 limited to (800) 650-1776. The undersigned has confirmed that this phone number  
21 belongs to the Defendant.  
22

23 18. During this time, Defendant contacted Plaintiff using an automated  
24 telephone dialing system and/or a pre-recorded voice.

25 19. Plaintiff knew that Defendant was using an automated telephone

1 dialing system and/or a pre-recorded voice as calls began with a pre-recorded  
2 message before a live caller came on the phone.

3  
4 20. Frustrated, Plaintiff told Defendant that he did not owe the debt, to  
5 send him a copy of the alleged bill, and instructed Defendant to cease calling him  
6 in or around May 2017.

7  
8 21. Once Defendant was informed that its calls were unwanted and to  
9 stop calling, there was no lawful purpose to making further calls, nor was there  
10 any good faith reason to place calls.

11  
12 22. However, Defendant failed to restrict calls to Plaintiff's cellular  
13 telephone and continued to call him.

14 23. Defendant's calls were not placed for emergency purposes.

15  
16 24. Defendant's calls were especially irritating because they would call  
17 Plaintiff while he was at work.

18  
19 25. After Plaintiff's repeated request to stop calls was ignored by  
20 Defendant, he had no other option but to install a blocking application on his  
21 cellular telephone to block calls from their phone number.

22  
23 **COUNT I**  
**DEFENDANT VIOLATED §§1692d and d(5) OF THE FDCPA**

24  
25 26. Section 1692d of the FDCPA prohibits debt collectors from engaging  
in any conduct the natural consequence of which is to harass, oppress, or abuse

1 any person in connection with the collection of a debt.

2 27. Section 1692d(5) of the FDCPA prohibits debt collectors from  
3 causing the telephone to ring or engaging any person in telephone conversation  
4 repeatedly with intent to annoy, abuse or harass.  
5

6 28. Defendant violated §§1692d and d(5) when it called Plaintiff  
7 repeatedly and continued calling even after Plaintiff informed Defendant he  
8 wanted calls to cease.  
9

10  
11 **COUNT II**  
12 **DEFENDANT VIOLATED THE TCPA**

13 36. Plaintiff incorporates the forgoing paragraphs as though the same  
14 were set forth at length herein.  
15

16 37. Defendant initiated multiple automated telephone calls to Plaintiff's  
17 cellular telephone number.

18 38. Defendant's initiated these automated calls to Plaintiff using an  
19 automatic telephone dialing system.  
20

21 39. Defendant repeatedly placed non-emergency calls to Plaintiff's  
22 cellular telephone.

23 40. Under § 227(b)(3)(A) of the TCPA, a person or entity may bring a  
24 private cause of action in an appropriate court based on a violation of the TCPA or  
25 the regulations prescribed under the TCPA to enjoin such violation.

1           41. Under § 227(b)(3)(B) of the TCPA, a person or entity may bring a  
2 private cause of action in an appropriate court “to recover for actual monetary loss  
3 from such a violation, or to receive \$500 in damages for each such violation  
4 whichever is greater.”

5  
6           42. Based upon the conduct of Defendant, Plaintiff avers that the  
7 enhancement of damages provided for by the TCPA allowing for Plaintiff to  
8 recover up to \$1,500 per call/violation be applied to calls placed.

9  
10          43. Defendant’s conduct violated § 227(b)(1)(A)(iii) of the TCPA by  
11 placing repeated calls using an automatic telephone dialing system to Plaintiff’s  
12 cellular telephone.

13  
14          44. Defendant’s calls to Plaintiff’s cellular telephone after he revoked  
15 consent in or around May 2017 were not made with Plaintiff’s prior express  
16 consent.

17  
18          45. Defendant’s acts as described above were done with malicious,  
19 intentional, willful, reckless, wanton and negligent disregard for Plaintiff’s rights  
20 under the law and with the purpose of harassing Plaintiff.

21          46. The acts and/or omissions of Defendant were done unfairly,  
22 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,  
23 lawful right, legal defense, legal justification or legal excuse.  
24  
25

1        47. As a result of the above violations of the TCPA, Plaintiff has suffered  
2 the losses and damages as set forth above entitling Plaintiff to an award of  
3 statutory, actual and treble damages  
4

5  
6  
7                    **PRAYER FOR RELIEF**

8        WHEREFORE, Plaintiff, BRENT ECHOLS, respectfully prays for a  
9 judgment as follows:  
10

- 11            a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1)  
12                and 47 U.S.C. §227(b)(3)(A);
- 13            b. Statutory damages of \$1,000.00 for each Plaintiff for the violation  
14                of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- 15            c. All reasonable attorneys' fees, witness fees, court costs and other  
16                litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §  
17                1693k(a)(3) and Tex. Fin. Code § 392.403(b);
- 18            d. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- 19            e. Statutory damages of \$500.00 per violative telephone call pursuant  
20                to 47 U.S.C. § 227(b)(3)(B);
- 21            f. Treble damages of \$1,500.00 per violative telephone call pursuant  
22                to 47 U.S.C. §227(b)(3);
- 23            g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);  
24  
25

1 h. Any other relief deemed appropriate by this Honorable Court.  
2  
3

4 **DEMAND FOR JURY TRIAL**

5 PLEASE TAKE NOTICE that Plaintiff, BRENT ECHOLS, demands a jury  
6 trial in this case.  
7  
8

9 DATED: March 20, 2018

KIMMEL & SILVERMAN, P.C.

10  
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